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LITIGATION & TRUST DIV.
U.S. DEPT. OF JUSTICE

FIVE YEARS OF UNFAIR TRADE PRACTICES BY MINNESOTA DUAL AGENCY BROKERS

Submitted by Real Estate Broker John Hislop, CUBE Realty Inc.
St. Paul, Minnesota

OCTOBER, 2005

Note to US Department of Justice:

As a licensed real estate broker in Minnesota I applaud and welcome the US Department of Justice involvement to stop anti competitive tactics of NAR's cartel of dual agency brokers. In the year 1983 the FTC conducted an epic study revealing 72% of home buyers believed the agent showing them houses was their representative agent. Undisclosed sub-agency was the modus operandi during those times. All Realtors represented the seller as we all know. Today, twenty two years after that landmark study, licensed agents still refuse to fully disclose to home buyers their rightful option to choose exclusive buyer agency (EBA). I am a small business Exclusive Buyer Agency broker with five licensed agents. I believe blatant restraint of trade tactics are perpetrated by MN MEGA DAB's (Mega Dual Agency Brokers).

You might say Exclusive Buyer Agency had its conception back in 1983 when an overdue buyer agency representation seed was planted by the FTC. One could conclude that a twenty two year gestation period has transpired. I am imploring the Dept. of Justice and FTC to revisit this gigantic issue and perform a cesarean section to midwife EBA into the living world.

The free enterprise system in real estate is not hitting on all cylinders in the US. In over five years of serving the Twin City area as an Exclusive Buyer Agency (EBA) I have directly experienced unfair trade practices by traditional MEGA DAB's. Edina Realty, Coldwell Banker Burnet, ReMax are some of the players in our MN market. Restraint of trade tactics by MEGA DAB's stifles competition and ultimately harms consumers.

I have accumulated hundreds of documents and exhibits to document prima facie infractions committed by MN MEGA DAB's. The Justice Department and Federal Trade Commission could assemble immeasurable data by focusing on Minnesota to collect relevant anti-competitive corroborating facts. MN is a national leader in percentage of dual agency completed transactions. MN brokers are consummate pros at teaching their licensed agents how to execute the lexicon, time honored, "HOGGER" (both sides of a real estate transaction earning a double commission).

After passing the brokers license exam over five years ago I became determined to establish an innovative company with lofty integrity goals. I founded CUBE (Consumers Ultimate Buyer Exclusive) Realty Inc. I studied and read everything I could to develop an exemplary exclusive buyer agency.

I became an active member of the National Association of Exclusive Buyer Agents. I also joined the MN Real Estate Forms Committee, their Professional Standards Committee, the MN Governmental Affairs Committee and others. I soon learned that working from within the Minnesota Association of Realtors was an exercise in futility. All of the state association committees are stacked with MEGA DAB's who essentially control real estate commerce in Minnesota.

Is there a conspiracy by the NAR to promote their sacrosanct cash cow known as dual-agency and essentially red-line Exclusive Buyer Agency? The resounding answer to this question is **YES**.

INDEX TO:

UNFAIR RESTRAINT OF TRADE TACTICS IN WHICH MY COMPANY, CUBE REALTY INC., AS WELL AS MN CONSUMERS HAVE BEEN VICTIMIZED VIA MN ASSOCIATION OF REALTORS MEGA DAB's CONDUCT.

1. Failure to disclose single agency i.e. Exclusive Buyer Agency to MN consumers.
2. Distribution of misleading, fraudulent, dishonest advertising regarding "Representation".
3. Labeling "single agency" a "business practice" and NOT really an agency option in order to protect the MEGA DAB's cash cow, dual agency.
4. Intruding on EBA (Exclusive Buyer Agency) Contracts.
5. Anti consumer Realtor arbitration methodology i.e. "procuring cause" application.
6. Deaths of two children caused by lack of EBA disclosure.
7. Stifling inventive business models that will NOT support the old party line of dual agency.

My goal was to get this succinct two page message to you prior to the Work Shop of October 25th. I will follow up with a detailed description of each of the seven restraint of trade tactics I have observed in Minnesota.

Respectfully submitted,



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